

ADJUTANT AND INSPECTOR GENERAL'S OFFICE,
Richmond, June 2, 1863.

GENERAL ORDERS, }
No. 73. }

I. At the Military Court held for the Army of Lt. Gen. Polk, at Shelbyville, Tenn., April 14th, 1863, was tried:

Capt. W. W. W. WOOD, Company L, Blythe's Regiment of Miss. Volunteers, on the following charge and specifications:

Charge, - - - Conduct unbecoming an officer and gentleman.

Specifications.—The 1st and 3d are omitted. The 2d is as follows:

Specification 2—In this, that the said Capt. W. W. W. Wood, Company L, Blythe's Miss. Regiment of Volunteers, remained in camp four days preceding and during the battle of Murfreesboro', but came to his company the day after said battle, to wit, January 1, 1863, and took command of his company until a part of the regiment, his company included, was ordered forward to support the sharp shooters who were in front of the line of battle, when said Capt. W. W. W. Wood, Company L, Blythe's Miss. Regiment, made a pretext to Lieut. O'Hea of his company for momentarily leaving his place. He the said Capt. W. W. W. Wood, Company L, Blythe's Regiment, returned to his company no more, but reported to Doct. X. Xaupi, surgeon of said regiment, who refused to excuse him. Nevertheless, said Capt. W. W. W. Wood, Company L, Blythe's Miss. Regiment of Volunteers, went back to camp, and remained there till forced out on the following morning. All this near Murfreesboro', Tenn., January 1, 1863.

II. *Finding and Sentence.*

The majority of the Court find the accused, Capt. W. W. W. Wood, Company L, Blythe's Miss. Regiment, as follows:

Of Specification 1st, - - - - - Not Guilty.

Of so much of that part of Specification 2d, which charges him with two days remaining away from his company at camp, - - - - - Guilty.

The whole Court find him of the remainder of Specification 2d, - - - - - Not Guilty.

The whole Court honorably acquit him of the 3d Specification, and say,	- - - - -	Not Guilty.
The majority of the Court find him of the Charge, and sentence him to be dismissed the service.	- - - - -	Guilty,

III. The proceedings in the foregoing case have been submitted to the Secretary of War, to be laid before the President—and the following orders are now made thereon :

Capt. Wood was tried on the single charge of "conduct unbecoming an officer and gentleman," under which three specifications were laid. The whole Court acquit him of the 3d specification. A majority acquit him of the 1st and part of the 2d specification, but find him guilty of the remainder of the 2d specification, and guilty of the charge. A portion of the 2d specification is, therefore, all that in the opinion of the Court sustains the charge. But this finding is altogether too imperfect and uncertain. If the 2d specification refers to separate and distinct offences, it is wholly defective, and should have been set aside before the trial; but if it embraces a single substantive offence, the Court cannot separate its parts, and find the accused guilty as to one portion and not guilty as to another, *unless it is clear that the facts thus separated and established, of themselves constitute the particular offence charged.* But this is far from being clear. The looseness and uncertainty of the 2d specification, and the finding thereon, are a sufficient and fatal objection. The whole finding is moreover informal and irregular. The judges give lengthy and separate opinions in connection with it, and represent one part of their finding to be by a majority, and the remainder by the whole Court. It is never desirable to state by what vote the Court has arrived at its conclusions, and it is contrary to the practice of Courts Martial to do so. Upon the whole, the proceedings are set aside, and Capt. Wood will therefore be released from arrest and returned to duty.

By order.

S. COOPER,

Adjutant and Inspector General.